

U.S. Senate
Republican Policy
Committee

Larry E. Craig, Chairman
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Legislative Notice

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Treaty Doc. 105-5 – Flank Document Agreement to the Conventional Armed Forces in Europe (CFE) Treaty

Executive Calendar No. Not yet available.

The Resolution of ratification was reported by the Foreign Relations Committee on May 8, 1997, by a vote of 17-0.

NOTEWORTHY

- While no Unanimous Consent agreement existed at press time, it is anticipated that the Senate will move to Executive Session on Monday, May 12, 1997, to consider the Flank Document Agreement to the Conventional Armed Forces in Europe (CFE) Treaty.
- The CFE Treaty was signed in November of 1990, ratified in 1991, and entered into force in 1992. The treaty, agreed upon by the 22 nations of NATO and the Warsaw Pact, placed alliance-wide, regional (zonal) and national ceilings on specific military equipment, including: battle tanks, artillery, armored combat vehicles, attack helicopters and combat aircraft.
- Negotiations to deal with the changed international environment after the dissolution of the Soviet Union and Warsaw Pact began in 1995, with Russia arguing that the flank agreement no longer met its national security needs. The resulting Flank Document has three basic elements: 1) reducing the size of the flank zone (the "map realignment"); 2) additional constraints on equipment in the areas removed from the flank zone through realignment; and 3) additional inspection, information exchanges and notifications, known as transparency measures.
- The Resolution of ratification includes 14 conditions regarding: U.S. policy; violation of state sovereignty; U.S. facilitation of negotiations; noncompliance; monitoring and verification of compliance; Senate endorsement of CFE Flank Document; further modification of the Treaty; treaty interpretation; Senate prerogatives on multilateralization of the ABM Treaty; accession to the CFE Treaty; temporary deployments; military acts of intimidation; supplementary inspections; and, designated permanent storage sites. It is likely the condition on the ABM Treaty will be a topic for debate. [See pp. 4-6 for a brief explanation of some of these conditions.]
- To be approved, the Resolution of ratification requires a two-thirds vote of the Senate.

BACKGROUND

The Conventional Forces in Europe (CFE) Treaty places limits on the non-nuclear forces of the 22 nations of the NATO and Warsaw Pact. The Treaty places alliance-wide, regional and national ceilings on five categories of equipment: battle tanks, artillery, armored combat vehicles, attack helicopters and combat aircraft. The ceilings applied to the two "groups of States parties" within the treaty's area of application, designated from the "Atlantic to the Urals (ATTU)."

In addition, the CFE Treaty provides for:

- Detailed data exchanges on equipment, force structure, and training maneuvers;
- Specific procedures for the destruction or redistribution of excess equipment; and,
- Verification of compliance through on-site inspections.

To date, over 53,000 treaty-limited items of equipment (TLEs) have been removed or destroyed in Europe. However, the changed international environment of the 1990's ushered in efforts to adapt the treaty to the post Cold War world.

In 1992, the "Tashkent Agreement" was signed, dividing up Soviet weaponry among its successor states — Azerbaijan, Armenia, Belarus, Kazakhstan, Moldova, Russia, Ukraine, and Georgia. It also established equipment ceilings for each nation and the implied responsibility for the destruction or transfer of equipment necessary to meet these national ceilings.

But in addition to the national ceilings, the CFE Treaty established a system of four "zones" with separate sub-ceilings; the fourth zone being the flank zone. The flank zones include Russia's Leningrad Military District in the north and Russia's North Caucasus Military District in the south. With the outbreak of armed ethnic conflict in and around the Caucasus (most notably in Chechnya), Russia began to deploy weaponry in excess of treaty limits in that zone.

As the deadline approached for all States Parties to the CFE Treaty to make the necessary reductions to comply with CFE's overall, national, and zonal ceilings, it became clear Russia would not meet these requirements, especially in the so-called "flank zones."

The recognition that these concerns would need to be addressed resulted in the Flank Document Agreement, which was signed at the CFE Review Conference on May 31, 1996. The Review Conference also stipulated that the agreement would be provisionally in force until December 15, 1996, while States Parties completed their formal approval procedures. The deadline was then extended until May 15, 1997.

TERMS OF THE AGREEMENT

- With regard to Russia, the Flank Document Agreement does not permit any increase in overall holding of Treaty Limited Equipment (TLE) in the total area of application of the Treaty, nor does it change the equipment limits for the flank zone as specified in the CFE Treaty. However, after the Flank Agreement enters into force, the Treaty's flank limits will apply to a smaller geographic area than previously, and Russia will have until May 31, 1999, to bring its deployments in the realigned flank zone into full compliance with the Treaty's flank limits.

The Flank Document Agreement has three basic elements:

- First, removal of certain territory from the original flank zone (the "map realignment"), which reduces the size of the flank zone. Specifically, the agreement removes several Russian and one Ukrainian administrative district from the zone. For Russia, these are: Pskov oblast, a part of the Leningrad Military District (MD) and the Volgograd and Astrakhan oblasts, parts of Rostov oblast and Krasnodar kray, including the Kushchevskaya repair facility, all of which are parts of the North Caucasus MD. In Ukraine, the Odessa oblast, a part of the former Odessa MD. The result: flank limits on Russian and Ukrainian tanks, artillery, and armored combat vehicles in the flank zone will be applied to a smaller area. [See map depicting the areas affected by the realignment on p. 7.]
- Second, additional constraints on equipment in the areas removed from the flank zone through the realignment; and,
- Third, additional transparency measures for the flank zone and those areas removed from the flank zone, including enhanced reporting requirements, increased inspection rights in the zone, and district ceilings on armored combat vehicles to prevent their concentration. Specifically, Russia is obligated to accept up to ten additional declared site inspections and Ukraine, one.
- The Flank Document Agreement allows the Russian Federation the right to utilize "to the maximum extent possible" the CFE Treaty's provisions that allow temporary deployment of equipment within and outside its territory, to be achieved through free negotiations and with full respect to states' sovereignty.
- In addition, the Russian Federation has the right to utilize "to the maximum extent possible" reallocation of current quotas for equipment to be achieved through free negotiations and with full respect for sovereignty of the States Parties involved.
- During the period prior to May 31, 1999, Russia cannot increase its treaty-limited equipment holdings in the original flank zone above its declared January 1, 1996,

holdings. In addition, Russia must lower its force levels in the region so that its equipment holdings in the old and new flank zone meet all CFE obligations by May 31, 1999. The chart below compares the old to the new flank limits.

	Tanks	Artillery	Armored Combat Vehicles
Original Flank Limit	1,800	2,400	3,700
Permitted to 1999	1,897	2,422	4,397
New Flank Limit	1,380	1,680	1,380

Implementation of the Agreement

- Once the Flank Agreement enters into force — the areas removed from the flank will be considered part of a different CFE zone and, in addition to the constraints and enhanced transparency measures outlined above — will be subject to the limitations on equipment for that zone rather than the more restrictive limits on the flank zone.
- In addition to the Treaty's limits on deployments in the realigned flank zone, the Agreement provides for sub-caps on Russian Armored Combat Vehicles (ACVs) in specific regions removed from the flank, as an assurance against excessive concentrations of ACVs in any one area removed from the flank zone.
- If the Flank Agreement is not approved by all States Parties by May 15, 1997, it will be subject to "review" by all CFE States Parties.

The Resolution of Ratification: Key Conditions

Below is a summary of some of the key conditions in the resolution of ratification to accompany the CFE Flank Document Agreement.

1. Policy of the United States

U.S. policy remains that we achieve the immediate and complete withdrawal of the Russian Federation's armed forces and military equipment deployed, without that party's full and complete agreement, on the territories of the independent states of the former Soviet Union.

2. Violations of State Sovereignty

Includes a finding that armed forces and military equipment under the control of the Russian Federation are currently deployed on the territories of States Parties without their full and complete agreement. The Secretary of State should, as a priority matter, initiate discussions with the relevant States Parties to secure the immediate withdrawal of all armed forces and military equipment under the control of the Russian Federation deployed on the territory of any State Party without that party's full and complete agreement. Prior to the deposit of the U.S.

instrument of ratification, the President shall certify to Congress that NATO countries have issued a joint statement affirming that the CFE Flank Document does not give any State Party the right to station or temporarily deploy Treaty-limited equipment on the territory of other States Parties to the Treaty without the freely expressed consent of the receiving State Party.

3. Facilitation of Negotiations

Limits U.S. involvement as an intermediary in any negotiations involving the governments of Moldova, Ukraine, Azerbaijan, or Georgia to diplomatic activities aimed at ensuring the sovereign equality of these states. In addition, any U.S. involvement should also be aimed at ensuring the right of these states to reject or accept conditionally, any request by another State Party to temporarily deploy conventional armaments and equipment limited by the treaty on its territory or to reject or accept conditionally any request by another State Party to reallocate the current equipment quotas of these countries.

5. Monitoring and Verification of Compliance

Requires a yearly report, beginning January 1, 1998, on the withdrawal of Russian armed forces and military equipment. The condition also requires an annual report regarding the status of uncontrolled conventional armaments and equipment limited by the Treaty and any information made available to the U.S. government covering the transfer of conventional armaments and equipment limited by the Treaty made by any country to any subnational group. Finally, the condition calls for a report regarding whether Armenia was in compliance with the Treaty in allowing the transfer of conventional armaments and equipment limited by the Treaty through Armenian territory to the secessionist movement in Azerbaijan.

6. Senate Endorsement of CFE Flank Document

Requires the President to certify, prior to depositing the instrument of ratification, that the United States will vigorously reject any request by other parties for additional concessions prior to the CFE Flank Document coming into force. Any subsequent agreement to modify, amend, or alter the Treaty or the CFE Flank Document shall require the complete resubmission of the CFE Flank Document, together with any modification, amendment, alteration, or extension, to the Senate for advice and consent to ratification.

8. Treaty Interpretation

Nothing in condition (1) of the resolution of ratification of the INF Treaty shall be construed as authorizing the President to obtain legislative approval for modifications or amendments to treaties through majority approval of both Houses.

9. Senate Prerogatives on Multilateralization of the ABM Treaty

Includes two findings: that the FY 1995 DOD Authorization Act states how the United States shall not be bound by any international agreement that substantively modifies the ABM Treaty; and that the FY 1997 DOD Authorization Act states that the ABM succession accord would constitute a substantive change to the ABM Treaty which may only be entered into under the treaty-making power of the President under the Constitution. Requires that prior to depositing the instrument of ratification, the President certify to Congress that he will submit to the Senate for advice and consent any international agreement that adds one or more countries as

State Parties to the ABM Treaty or otherwise converts the ABM Treaty to a multilateral Treaty, or that changes the geographic scope or coverage of the ABM Treaty.

11. Temporary Deployments

Prior to depositing the instrument of ratification, the President is to certify to Congress that the United States has informed all States Parties that it interprets "temporary deployment" as one of severely limited duration (as days or weeks, or at most months) and will reject any State Party's effort to use temporary deployments to justify a permanent deployment or to justify deployments by a State Party on another's territory.

14. Designated Permanent Storage Sites

Includes a finding that removal of treaty constraints on designated permanent storage sites could introduce into active units 7,000 more tanks, 3,400 armored combat vehicles, and 6,000 artillery pieces. Prior to U.S. agreement or acceptance of any proposal to alter designated permanent storage sites, but not later than January 1, 1998, the President shall submit a report on the impact and implications of this provision.

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Revised CFE Flank Zone



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